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SENSITIVE

STATE FOR EUR A/S DFRIED, DAS MPEKALA, DAS MBRYZA, E,
EUR/NCE, EUR/ERA, EUR/RPM, EB/ESC
EUR/NCE FOR DKOSTELANCIK AND MSESSUMS
EB/ESC FOR SGALLOGLY AND RGARVERICK
DOE FOR LEKIMOFF
USDOC FOR 4232/ITA/MAC/EUR/JBURGESS, MWILSON, JKIMBALL
TREASURY FOR OASIA MATTHEW GAERTNER

E.O. 12958: N/A

TAGS: [OPDC](#) [ENRG](#) [ECON](#) [EU](#) [PL](#) [NATO](#)

SUBJECT: POLAND DELIVERS NON-PAPER ON ENERGY SECURITY TREATY

REF: A. WARSAW 148

[1](#)B. WARSAW 175

[1](#)C. WARSAW 176

SENSITIVE BUT UNCLASSIFIED -- NOT FOR INTERNET DISTRIBUTION

[1](#)1. (SBU) Summary: Late Friday, February 24 the office of Prime Minister Marcinkiewicz delivered a letter addressed to President Bush with an accompanying non-paper outlining Poland's proposed European Energy Security Treaty. An unofficial translation of the letter to President Bush is included in para 2, the english version of the non-paper in para 3. PM Marcinkiewicz originally proposed a European Energy Security Treaty in January following the Russian cut-off of gas to Ukraine. Deputy Minister of Energy Naimski broadly discussed the goals of the treaty with EUR A/S Fried and DOD A/S Fluory during the U.S.-Poland Strategic Dialogue meeting on January 25. This is the first detailed information post has received on Poland's proposed treaty. End Summary.

[1](#)2. (SBU) Unofficial translation of letter from Prime Minister Kazimierz Marcinkiewicz to President George W. Bush.

BEGIN TEXT:

Your Excellency,

In relation to the currently held discussions concerning energy security in Europe, I would like to present you with a copy of Poland's non-paper on the Outline of the European Energy Security Treaty.

The aim of our initiative is to enact a new and simple treaty between the Member States of the European Union and the North Atlantic Treaty Organization, that would give our citizens an enhanced security of energy supplies to their homes and companies.

I would appreciate receiving from you your comments and opinions on this matter.

This letter, together with the attached non-paper has been forwarded to all the Heads of Government of the European Union and NATO.

Respectfully yours,

Kazimierz Marcinkiewicz

END TEXT.

[1](#)3. (SBU) Poland's Non-Paper: Outline of the European Energy Security Treaty.

BEGIN TEXT:

Introduction

The European Energy Security Treaty (EEST) will be the first political instrument linking states in the area of mutual energy security guarantees. The need for the Treaty stems from the contemporary experiences of world interdependence, wherein the difficulties of one country are immediately reflected in neighboring states. The progressing interdependence of the energy systems of European Union Member states, emerging simultaneously with the common electricity and natural gas markets, dramatically underlines the need for political solidarity in this field.

The negative impact of this kind of interdependence affecting European states was recently exemplified by disagreements concerning supplies of natural gas between Ukraine and Russia

(2006), Belarus and Russia (2004), technical deficiencies in the electricity systems between Switzerland and France, resulting in a blackout in northern Italy (2003). Natural disasters, terrorist activity and grid failures may cause energy problems in neighboring countries. In such situations, we need to have a mechanism that would allow us to assist the countries affected in a fast, effective and coordinated manner. This mechanism could be based on a political agreement that would imply mutual security guarantees, modeled on the guarantees at the root of the Western European Union (provided by the modified Brussels Treaty) as well as NATO (provided by the Washington Treaty).

The immediate aim of the EEST is to raise the level of the Parties' energy security. This can only be achieved through the creation of a political space, wherein all the participating Parties would develop their own systems of energy security (different types of power plants and electricity transmission lines, oil and natural gas pipelines, oil and natural gas maritime ports, storage facilities, transmission system interconnectors, development of renewable energy sources, capital strengthening of domestic companies active in this field, etc.). For today, potential political pressure exerted with the use of energy instruments, as well as natural disasters or terrorist acts, can fundamentally hamper or even prevent the achievement of long term objectives.

The geographic situation and the structure of energy consumption and production of European states determine the kinds of dependencies to which they are subjected. Thus, we achieve a basic synergy stemming from a shared interest in building a system of mutual energy security. In other words, the requirement of energy security exists regardless of geographic situation or kinds of energy dependencies. This is one of the most fundamental premises of the EEST.

In the mid-term, the EEST will permit steady growth of national energy security systems, including the development of interconnectors between the Parties, that will take place in a political environment more stable than today.

The EEST should have the long-term goal of ensuring energy supply stability to all the States-Parties of the EEST and to the entire area of the EEST. The energy situation of the Parties and the entire EEST area will be considered secure once the Parties and the entire EEST area achieve diversification in:

- The kinds of energy consumed and their sources;
- The kinds of energy imported and their sources;
- Physical connections to the sources of supply and sources of energy imported.

Current international arrangements do not provide a legal basis for the mutual granting of energy security guarantees by states wishing to do so within a multilateral framework. Neither the European Union, nor the European Community provides such a basis. NATO is not properly equipped in this respect, either: the Parties to the Washington Treaty are required to grant each other mutual assistance in a situation of armed attack. In this context, it is the intent of the EEST to enhance the internal cohesion and solidarity of its Parties in the field of their individual energy security as well as the energy security of the entire area of the EEST.

----- Basic Elements for the European Energy Security Treaty -----

1. The EEST will refer to the right of European nations to enjoy stable supplies of energy (FOOTNOTE 1: The UN Charter stipulates in Art 1.3: "The Purposes of the United Nations are: (...) To achieve international co-operation in solving international problems of an economic (...) character..." END FOOTNOTE.), based on market relations between economic entities in the fields of energy provision, namely its extraction, import, transmission and transportation, storage, processing, distribution and trade. It will invoke the political solidarity linking the Euro-Atlantic community. Participation in the EEST will require a country's commitment to cooperate in bringing assistance to a Party affected by restrictions in energy supplies, and to build and develop the necessary organizational and technical infrastructure designed to permit such cooperation.

2. The EEST will be based on the rules of public international law. It will draw on the political and legal reality of the European Union and the North Atlantic Treaty.

The criteria of participation: the EEST will be open to all Member States of either the European Union or NATO.

However, if not all EU Member States opted to participate in the EEST, the EEST could be enacted in the mode of the Prum Convention, agreed in 2005 between a limited number of

States-Parties to the Schengen system. Though not a EU Member State, Norway participates in the latter.

The EEST formula not embracing all EU Member States would mean that the countries initially outside the EEST could join it at a later stage, provided that they committed themselves "to cooperate in bringing assistance to a Party affected by restrictions in energy supplies, and to build and develop the necessary organizational and technical infrastructure designed to permit such cooperation" (point1) and fulfilled the *acquis* developed until then.

13. The EEST would contain a basic clause elaborating mutual energy security guarantees, under which the Parties would be obligated to grant each other mutual assistance in the event of a threat to their energy security from natural or political causes.

The Treaty commitments should contain a clause with the Parties undertaking that a threat to the energy security of one of them will be considered a threat to the energy security of all of them. Consequently, in the event of a threat to the energy security of one or more of them, the other Parties - acting together or separately - will afford the Parties threatened all aid and assistance at their disposal, excluding the use of armed force.

Threat to the energy security of one of the Parties will be understood to mean a situation wherein the limitation of energy or energy source supplies onto its territory is not the effect of a trade agreement freely concluded.

14. The EEST will establish a mechanism enhancing the creation and development of an infrastructure for transporting, transmitting and storage of energy and its sources, allowing mutual energy security assistance in the event of a threat. The mechanism will have the following elements:

- It will be lined to the EU undertakings within the Trans-European Networks - Energy (TEN-E) framework, as well as those that may result from the development of the New Energy Policy (NEP). Thus, the EEST will reflect EU achievements relating to the energy markets. Furthermore, NEP should take into account the objectives of EEST.

- There will be a small, common budget to be used for co-financing key non-commercial elements of the infrastructure.

- There will be commonly agreed tasks financed from public sources of the EEST Parties and from those of private companies contracted to fulfill particular tasks.

15. The EEST will elaborate the means of consultation and reaction of the Parties in the event of a threat to the energy security of one or more Parties.

16. The EEST will provide the basis for genuine diversification of the sources, means of transportation and kinds of energy consumed within the territory of each Party and within the entire area of the European Energy Security Treaty.

In order to allow for a proper policy diversifying the Parties' sources, means of supply and kinds of energy, the Parties - after the EEST enters into force - will adopt appropriate security indicators that will set the levels of maximum dependency on particular sources, means of transportation and kinds of energy consumed and imported.

In its application, particularly in the economic field, the EEST will not be in contradiction with the treaties establishing the European Community, the treaty on the European Union and the New Energy Policy. The EEST will support its Parties in their duty to provide energy security for their citizens; it will not pertain, however, to the field of energy regulation. In consequence, the EEST will not be an instrument of intervention in the energy markets, its sources, or distribution.

The EEST will not determine the ownership of those economic entities that its Parties entrust with the fulfillment of Treaty commitments. the participating Parties will remain free in this field.

17. The EEST will not infringe on the commitments of those Parties that are simultaneously Parties to the Washington Treaty and thus Members of NATO.

18. The EEST will lay down the ways and means of mutual information and consultation of the Parties in the event of emergence of threats and, in particular, on cuts or limitations in the supply of energy and its sources.

19. The EEST will establish a system of monitoring the state

of the energy security of its Parties and of the entire Treaty area. In doing so, it may refer to the acquis of the New Energy Policy of the European Union.

10. The EEST will determine the goals of a system of mutual confidence- and transparency-building measures and its development in the relations between the countries importing and exporting energy and its sources.

11. The EEST will determine its institutional structure, seat, budget, ways of resolving disputes and supervision of commitment implementation. Decisions will be taken unanimously.

END NON-PAPER TEXT.
KULAKOWSKI